

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
SHELBY DIVISION**

**IN RE:** ) **CASE NO: 23-40136**  
 )  
**CLEMMER'S CONSTRUCTION, LLC,** ) **CHAPTER 11**  
 )  
**Debtor.** ) **JUDGE J. CRAIG WHITLEY**  
 )

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**SUBCHAPTER V TRUSTEE'S OBJECTION TO CONFIRMATION  
OF CHAPTER 11 SUBCHAPTER V PLAN**

James David Nave, Subchapter V Trustee (the “Trustee”) in this bankruptcy case, respectfully submits this Objection to the Debtor’s Plan of Reorganization [**Docket Entry # 65**] (the “Plan”) filed in this bankruptcy case on December 15, 2023. In support of this Objection, the Trustee states to the Court as follows:

1. Clemmer’s Construction, LLC (“Debtor”) commenced this bankruptcy case by filing a Petition under Chapter 11, Title 11 U.S.C. with the Clerk of this Court on August 3, 2023. In the Petition, the Debtor designated itself as a Debtor under 11 U.S.C. § 1182(a) and made the election to proceed under Chapter 11, Subchapter V pursuant to 11 U.S.C. § 103(i).
2. On August 4, 2023, the United States Bankruptcy Administrator for the Western District of North Carolina (the “BA”) appointed James David Nave as the Subchapter V Trustee in this case pursuant to 11 U.S.C. § 1183(a).
3. The Debtor has been acting as the Debtor-in-Possession pursuant to 11 U.S.C. § 1184 since the commencement of the case.
4. On December 15, 2024, the Debtor filed a Plan of Reorganization [**Docket Entry # 65**] (the “Plan”).

5. The BA filed an Objection [**Docket Entry # 76**] (the “BA’s Objection) to confirmation of the Plan on January 21, 2024. The Trustee incorporates the BA’s Objection herein by reference.

6. Creditors and/or parties in interest have also filed Objections to confirmation of the Plan. [**See e.g. Docket Entry #'s 78 & 72**] (the “Creditor Objections”). The Trustee incorporates the Creditor Objections herein by reference. Some of these Creditor Objections set forth factual allegations that were previously unknown to the Trustee. These allegations require further investigation. Pending such an investigation, the Trustee cannot determine whether the Plan complies with applicable provisions of Title 11 U.S.C. and/or is in the best interest of creditors and this bankruptcy estate.

7. The Trustee expressly reserves any and all other rights, objections, etc. with respect to the Plan including, but not limited to, the right to amend this Objection prior to or at the hearing on confirmation of the Plan.

**WHEREFORE**, based upon the foregoing, James David Nave, Subchapter V Trustee respectfully objects to confirmation of the Debtor’s Plan of Reorganization, requests that the Court conduct a hearing on this Objection and, at said hearing, that the Court grant any relief that it deems just and proper.

Respectfully Submitted,

By: /S/ JAMES DAVID NAVÉ  
JAMES DAVID NAVÉ, State Bar No. 54129  
***Subchapter V Trustee***  
51 Lawrence Place  
Asheville, NC 28801  
(615) 430-9511 (Telephone)  
jdnave1@charter.net

## **CERTIFICATE OF SERVICE**

This is to certify that the undersigned has this date served the foregoing Objection to Confirmation of Plan in the above-entitled action upon all other parties to this cause by depositing a copy hereof in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service, addressed as follows of as electronically filed and served:

R. Keith Johnson  
1275 South Hwy 16  
Stanley, NC 28164

*served electronically*

U.S. Bankruptcy Administrator Office  
401 W. Trade Street  
Suite 2400  
Charlotte, NC 28202-1669

*served electronically*

### All Other Parties Requesting Notice.

*served electronically*

THIS, the 22d day of January 2024.

By:S/ JAMES DAVID NAVE  
James David Nave